

### REMARKS/ARGUMENTS

The claims are 29, 31, 33, 35, 40, 44, 53-55, 59, 65, 67 and 69-77. Claims 1, 20, 21, 32, 61, 64, 66 and 68 have been canceled in favor of new claims 70-77, respectively. Claims 40, 44, 53 and 55, which previously depended on claim 1, have been amended to depend on new claim 70. In addition, claims 29 and 31 have been amended to depend on new claim 72, claims 33 and 35 have been amended to depend on new claim 73, claim 65 has been amended to depend on new claim 75, and claim 69 has been amended to depend on new claim 77. These claims and claims 54, 59 and 67 have also been amended to improve their form. The specification has also been amended to improve its form and to correct clerical errors noted therein. Support may be found, *inter alia*, in the disclosure at pages 20-21, 23-24, 28, 35-36, 38-39, and 41-42, and FIGS. 1, 7 and 13. Reconsideration is expressly requested.

The specification was objected to along with claims 29 and 32 on the basis of certain informalities as set forth on pages 2-3 of the Office Action. Claim 67 was also been rejected under 35 U.S.C. § 112, first paragraph, as containing new matter in the recitation of "perceptibly broader." In response, Applicants have amended claim 29 to change the phrase "right through inside"

to --continuously within-- to conform to the paragraph bridging pages 38-39 of the disclosure, have changed the phrase "at least substantially" in claim 35 to --at least essentially-- to conform to the paragraph bridging pages 20-21 of the disclosure, and have changed the phrase "perceptibly broader" in claim 67 to --perceptible-- to conform to the paragraph bridging pages 23-24 of the disclosure. It is respectfully submitted that the foregoing amendments overcome the Examiner's objection to the specification and to claims 29 and 32 on the basis of these informalities and the rejection of claim 67 under 35 U.S.C. 112, first paragraph, as containing new matter, and Applicants respectfully request that the objection to the specification, and to claims 29 and 32, and the rejection of claim 67 under 35 U.S.C. 112, first paragraph, be withdrawn.

Claim 40 was rejected under 35 U.S.C. § 112, first paragraph, as failing to comply with the written description requirement and claims 59 and 64 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement.

With respect to the rejection of claim 40, the Examiner's attention is respectfully directed to FIG. 13, and pages 41-42 of

Applicants' disclosure, wherein the embodiment to which claim 40 is directed is specifically described.

With respect to the rejection of claim 59, it is respectfully submitted that one skilled in the art would know how to select an adhesive layer comprising an adhesive that adheres to a back sheet of the diaper with a separation force of more than 0.05 N/cm<sup>2</sup> as recited in claim 59 as amended, and that the recitation in amended claim 59 that the adhesive layer comprises an adhesive adhering to a back sheet of the diaper with a separation force of more than 0.05 N/cm<sup>2</sup> together with Applicants' disclosure provides sufficient guidance that would enable one skilled in the art to construct a diaper in which the pop-off securing fastener includes an adhesive layer comprising adhesive with this property.

With respect to the rejection of claim 64, Applicants have canceled claim 64 in favor of new claim 75, thereby obviating the Examiner's rejection of claim 64.

It is respectfully submitted that amended claims 40 and 59 and new claim 75 fully comply with 35 U.S.C. 112, and Applicants respectfully requests that the rejections under 35 U.S.C. 112,

first paragraph, be withdrawn. .

Claims 29, 35, 40, 53, 59, 61, and 67 were rejected under 35 U.S.C. § 112, second paragraph, as being indefinite for the reasons set forth on pages 5-7 of the Office Action. In response, Applicants have rewritten claims 1, 20, 21, 32, 61, 64, 66, and 68 as new claims 70-77 respectively, and have amended the remaining claims to improve their form. It is respectfully submitted that all currently pending claims fully comply with 35 U.S.C. 112, second paragraph, and Applicants respectfully request that the rejection on this basis be withdrawn as well.

Claims 1, 20, 21, 29, 31-33, 35, 40, 44, 53-55, 61, 64 and 66-69 were rejected under 35 U.S.C. §§ 102(a) and (e) as being anticipated by *Tanzer et al. U.S. Patent Application Publication No. 2003/0009144*. The remaining claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Tanzer et al.* alone (claim 65), or further in view of *Cinelli et al. U.S. Patent Application Publication No. 2003/0212416* (claim 59).

This rejection is respectfully traversed.

As set forth in new claims 70-77, Applicants' invention

provides a fastening tape for hygiene item, a method for closing a diaper, and a method for producing a fastening tape in which various forms of pop-off securing means are used. It is respectfully submitted that there is no disclosure or suggestion in *Tanzer et al.* of pop-off securing means. Although the Examiner has taken the position at page 8 of the Office Action that an adhesive disposed on layer 78 of *Tanzer et al.* may be a pop-off securing means, it is respectfully submitted that the Examiner's position is unfounded. This adhesive of *Tanzer et al.* is always covered by flocking fibres onto the remaining exposed adhesive. See paragraph [0058] of *Tanzer et al.* Therefore, it is respectfully submitted that *Tanzer et al.* fails to disclose or suggest any free adhesive layer that might serve as a pop-off securing means.

The remaining reference to *Cinelli et al.* cited against claim 59 has been considered but is believed to be no more relevant. *Cinelli et al.* likewise fails to disclose or suggest a diaper having a fastening tape as recited in claim 59, including a pop-off securing fastener.

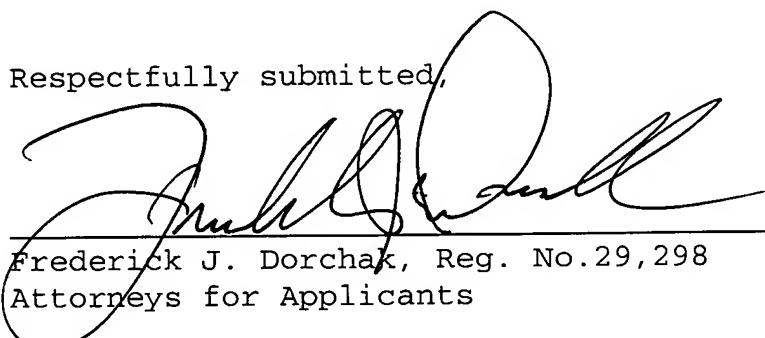
Accordingly, it is respectfully submitted that claims 70-77, together with the remaining claims which depend directly or

indirectly on one of these claims, are patentable over the cited references.

In summary, claims 1, 20, 21, 32, 61, 64, 66 and 68 have been canceled, claims 29, 31, 33, 35, 40, 44, 53-55, 59, 65, 67 and 69 have been amended, and new claims 70-77 have been added. The specification has also been amended. A check in the amount of \$220.00 is enclosed in payment of the fee for one additional independent claim over those previously paid for. In view of the foregoing, it is respectfully requested that the claims be allowed and that this case be passed to issue.

Respectfully submitted,

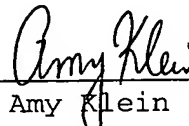
COLLARD & ROE, P.C.  
1077 Northern Boulevard  
Roslyn, New York 11576  
(516) 365-9802  
FJD:djp



Frederick J. Dorchak, Reg. No. 29,298  
Attorneys for Applicants

Enclosures:      Check in the amount of \$220.00  
                      Petition - 3 month extension of time

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as first class mail in an envelope addressed to: Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on January 19, 2010.



Amy Klein